

MCLUAC (Middle Canyon Land Use Advisory Committee)
Minutes from October 27, 2020 meeting

Call to Order: 7:17pm

Committee Members:

- Terry Divoky 12/31/20
- Aubrie Lorona 12/31/22
- Sharon Demeester 12/31/21 (called in)

- Mark Mussman, Director Flathead County Planning and Zoning

Approval of revised Agenda (amended items in red)

- Aubrie motioned to approve the revised agenda and Sharon seconded. Motion passed unanimously.

Approval of August 25, 2020 minutes as amended

- Sharon did not review the minutes so approval of these minutes is moved to the November 24, 2020 agenda.

Old Business

- Work Camp Ad Hoc Committee - Steve Frye presented the work done by the ad hoc committee to create a draft proposal to add a work camp for employee housing as a minor land use. The ad hoc committee feels the current proposal meets the charge that was put to them by the Committee and it is ready to present to the FPZO.
 - Mayre Flowers submitted comments on the draft. She attended the ad hoc committee meeting where the work camp was discussed and was under the impression that we would be receiving more information from Kate Cassidy of DPHHS. She doesn't feel that the current draft complies fully with DPHHS regulations, so her comments are an effort to incorporate more of those regulations into the proposal. She feels that there should be a threshold for the size of work camp that requires major land use review (5 or more) versus minor land use review (4 or less) because there is no public notice or public comment required for minor land use. The distinction, however, between 4 and 5 is arbitrary. She was hoping to incorporate public comment when a project is of a certain size. Additionally, she tried to provide some clarification of what a local business is in Chapter 7 Definitions.
 - Darwon Stoneman has called Kate Cassidy several times regarding the follow up information she was supposed to provide (i.e. if RVs have to go through sub-division review or if they can be handled by the work camp rules,) but she is still checking. He feels strongly that Mayre's suggested comments make seasonal housing more complicated than it needs to be and it will be harder for businesses to comply
 - Steve Frye reminded the group that affordability was a critical component of making seasonally occupied housing requirements something that businesses could comply with. The fact that the license requires an annual inspection and is revocable based on compliance ensures developer accountability. Steve did agree that the definition of local employers could be beefed up
 - Monica Jungster commented that the work camp locations will be on private property and there are a number of contingencies in the draft proposal to protect against improper work camp development
 - Sharon is concerned with Pursuit or other large property owners and the effect on the community if they were to bring in a work camp for 100 people. She doesn't want to lose sight of the long-term view
 - Mark Mussman confirmed that even if the outstanding information requested from DPHHS isn't 100% clarified, because it is governed by another agency, it shouldn't affect the draft proposal. He agreed that there should be one more performance standard added requiring a work camp developer to obtain a work camp license as required by DPHHS and administered by Flathead County. This is currently implied in standard #2, but should be called out more specifically. Mark commented that with short term rentals, they tried to add the requirement of adjacent neighbor notification and the Commissioners denied it because they felt the minor land use regulations should be consistent across all projects. Mark suggested adding another performance standard requiring developers to notify adjacent property owners within 150 feet and thinks there's a chance the Commissioners would accept it this time since

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this is a brand-new use. Mark confirmed that the minor land use process is administrative and is based on the submittal and approval of an application. The decision to approve the land use application is conditional upon all the performance standards being met. In contrast, the major land use process requires a planning board hearing and a decision by the County Commissioners. He feels that the core issue and the challenge for any developer is to get adequate sanitation for whatever housing is going to be on that particular piece of property. For example, housing for more than 24 people will require something very different than housing for 4 people, but both projects will still have to get work camp license approval to move forward and the license will only be granted if sanitation is appropriate. He agrees that if the process becomes more cumbersome to the employers, they are going to put their employees back in the woods

- Sharon motioned that the draft proposal go back to committee and be cleaned up and voted on at the November meeting. Aubrie seconded motion. Sharon and Aubrie voted yes; Terry voted no. Motion passed.

- By-laws Ad Hoc Committee

- Mike Kopitzke presented the work done by the ad hoc committee to revise the by-laws. The committee was asked to address: (1) number of Committee members (2) the make-up of the Committee, and (3) the possibility of remote meetings.
 - The ad hoc committee agreed modify the number of Committee members to contain up to 5 individuals for more flexibility/diversity.
 - The Committee will be made up of:
 - 1 business owner – an individual who owns or operates a business in the Middle Canyon
 - 3 permanent residents – resides in the Middle Canyon for the majority of the year (6 month and one day) and who has not established a primary residence elsewhere
 - 1 part time resident or absentee landowner – resides in the Middle Canyon for a portion of the year and/or owns physical property in the Middle Canyon even if they do not live there
 - Video conferencing was discussed and it was decided it will be handled on a case by case basis.
- There is a time sensitivity with the by-laws. We have to get them in place by November 13th in order for those positions to be available for this year as opposed to waiting until next year before these changes can take place
- Mayre Flowers appreciates the attempt to provide a voice for the community but doesn't feel that the definitions of the Committee member make-up meets the legal definition. She suggests the by-law revision is reviewed by the County attorney before it moves forward
- Monica Jungster clarified that a quorum consists of three members, but we can have up to 5. We don't necessarily have to fill all five seats
- Aubrie is the business owner representative and Sharon is the absentee owner representative, FPZO will be advertising for three permanent residents positions
- Mark Mussman confirmed if the by-laws revision was passed by the Committee, he will send the revised by-laws to the County Attorney on 10/28 and it will get on the Commissioners agenda for November
- Aubrie motioned to approve the by-laws. Terry seconded. Passed unanimously

New Business

- None

Discussion and Public Comments

- Mike Kopitzke – Whistlestop Resort's Lake Five Lakeshore Permit. The County revoked the two applications by Whistlestop's owner as a result of the lawsuit by Friends of Lake Five. The applications were re-submitted on October 9th. Friends of Lake Five feels that it should go through MCLUAC first and then on to the Planning Board. Mark said that these applications will be processed as a standard lakeshore permit which means that the Commissioners will make the decision. This will be one of the few, if not the first, that the Commissioners will have made the decision on, so unless the Commissioners determine that there could be a material impact to the

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lake or lakeshore, it will not go to the Planning Board. It is not yet on the Commissioner's agenda. Erin in the FPZO is processing the permit and is the contact to find out when the public comment period is.

- Update on the Friends of Lake Five lawsuit – the County revoked the major land use permits because of the use on Grizzly Spur (use of that road is for landowners only, not for commercial use). The County said that this would resolve the law suit, but Mike says the Whistlestop owner is still conducting illegal activity (i.e. renting property, using the road, etc.) The lawsuit identified 7 counts. He commented that the ramifications of this lawsuit do not just affect Flathead County. If it is adjudicated in District Court, it will set precedent for short term rentals and commercial development across all 56 counties of Montana. On October 22, the Friends of Lake 5 responded to the County's Summary Judgement so we should know in about a month how the judge rules on that.
- Mary McLelland – West Glacier Community Vision Plan. The team is working on a draft plan that should be ready for public comment in the next few weeks. It outlines the goals and priorities in anticipating and accommodating the growth in the Gateway and the whole Valley. It will be emailed out to everyone on the list. There is a public scoping effort regarding river use in the West Glacier area (safety, Going to the Sun congestion, increased use, etc). There is still an opportunity to provide input to the USFS. The WGCV group will try to make the information available as one of the goals of the Vision Plan is to support outdoor recreation without unnecessary impact
- Monica Jungster – Wildfire Preparedness. Has two new posters from DNRC that will be available for distribution to anyone who wants them. We may be having an early winter in Montana, but seeing what is happening with the rest of the country is scary. Working with DNRC, NPS, USFS and OES, she will plan to hold the community meetings for wildfires next summer. Sally followed up with a comment that Coram/WG fire department needs people. The fire they had this summer on Highline was very scary.
- Monica Jungster – Community Planning. 10-12 years ago, Monica was on a land use committee that looked at whether the lower canyon wanted to have a plan and at the time they didn't, but so much has changed since then so Monica is thinking this might be a good time to re-introduce this. Mark clarified the "The Canyon Plan" was developed first and it included discussions from the lower, middle and upper Canyon, which have been incorporated into the County growth plan. After that came the regulations and that is when the lower canyon folks opted out. He cautioned that the political will right now does not encourage a lot of time and effort on neighborhood plans. Another option would be to explore expanding the Middle Canyon boundaries incrementally (i.e. include Coram in the Middle Canyon). This process would require public meetings and ultimately Commissioner approval, but he could look into it a little more. As soon as census numbers come out, the County is going to do a revision to the overall County growth policy at that time (typically takes at least a few months) which will make a new canyon plan a very low priority.
- Sharon Bengston – West Glacier Overpass Project. A group of six people have been working on this project. They have had one zoom meeting already and they will do another one this Thursday.
- Terry's position on the MCLUAC Board expires 12/31/2020. Letters or emails of intent for this open seat will be taken by the FPZO. Deadline is Friday November 13, 2020 at 5pm.

Public Attendees

Sally Thompson
Sharon Bengston
Darwon Stoneman
Monica Jungster
Kelly Kopitzke

Mike Kopitzke
Steve Frye (via phone)
Mary Tee McLelland (via phone)
Mayre Flowers (via phone)

Adjournment 9:12 p.m.

Persons with a disability may request a reasonable accommodation by contacting Elaine Nelson at the Flathead County Commissioner's Office at 758-5501 or TTY (800) 335-7592, or call Montana Relay at 711. Requests should be made as early as possible to allow time to arrange the accommodation.

Any communication with the Flathead Planning and Zoning Office are subject to relevant State and Federal public record and information laws and regulations and may be disclosed without further notice to you.

How to contact the Middle Canyon Land Use Committee (MCLUAC)

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All correspondence goes to the Flathead Planning Office initially. Concerns, complaints or questions should be sent to Planning.zoning@flathead.mt.gov; the office will respond within 24 hours.

Compliance complaints can be submitted by Middle Canyon residents by completing the compliant form provided online, attached to an email to the Planning.zoning@flathead.mt.gov office. Forms are also available at the Flathead County Planning and Zoning Office, 40-11th Street W, Kalispell MT

Code compliance web page:

https://flathead.mt.gov/planning_zoning/codecompliance.php

Complaint violation form:

https://flathead.mt.gov/planning_zoning/documents/ComplaintFormupdated12.19.16.pdf

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